

Appl. No. 09/857,433
Amendment dated: September 15, 2005
Reply to OA of: June 17, 2005

REMARKS

The Official Action is a restriction requirement in which it is urged that there are five separate and distinct inventions claimed in this application. Applicants elect the Group I invention which includes claims 24, and generic claims 30, and 33-34, without traverse. Applicants reserve the right to file one or more divisional applications on the non-elected inventions at a later time. The remaining claims have been canceled from the application without prejudice or disclaimer and Applicants retain all rights to filing one or more divisional applications to the non-elected inventions.

Applicants wish to point out that the Examiner indicated that not only was a plurality of inventions found but that "the point of novelty argued in the arguments presented regarding the rejections over the references of record are not now found in the claims as presented". This statement is specifically traversed. In this regard, the Examiner's attention is most respectfully directed to pages 12 and 13 of the previous response where it is clearly pointed out that the method of claim 24 requires the inactivation of a reducing agent between steps (i) and (ii) of the recited method, and that no prior art document has shown such a step. This point of novelty is therefore quite unambiguously recited in the elected main claim as now on file and subject to an examination on the merits.

As previously noted, claim 24 had been reformatted to emphasize the contribution of the present invention over the prior art. In particular, the present invention allows the improvement of previously known homocysteine assay methods by reduction in the background signal and improvement of the signal to noise ratio. This in turn provides an assay with greater sensitivity and accuracy. This is indicated in the last two full paragraphs of page 1 of the application as filed and is now embodied quite clearly in the independent claims.

Specifically the Examiner believes that previously presented claim 1 is rendered obvious by Coombs on the basis that a DTT reducing agent is employed and that in the subsequent change of pH, during the assessment of NAD, at least some destruction

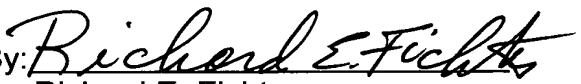
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of DTT would be expected. This method would, however, not provide the improvement now demonstrated in the present application and claim 24, since the reduction noise results from removing the DTT reducing agent after conversion by HDS but before generating a signal corresponding to the homocysteine conversion product (in this case alpha-ketobutyrate). The presently claimed invention has established that the presence of a reducing agent such as DTT, while essential at the HDS reaction stage causes increased background noise at later stages of the assay and therefore effective removal of this agent after the HDS reaction step provides the claimed improvement. This is set out in claim 24 but is in no way suggested in the Coombs reference. Furthermore, Coombs would not inherently have caused this improvement since any destruction of DDT brought about by the method of Coombs occurs too late in the assay process to give reduced background noise.

In view of the election of the Group I invention, without traverse, an early and favorable action on the merits of claim 24 and generic claims 30, 33 and 34 is now believed to be in order and is most respectfully requested.

Respectfully submitted,

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REF:kdd
A02.wpd

September 15, 2005